REMARKS

Applicants thank the Examiner for the very thorough consideration given the present application. Claims 1-2 and 4-15 are currently pending in this application. No claims have been amended. Accordingly, no new matter has been added.

In view of the remarks herein, as well as the amendments and remarks filed on March 23, 2009 and incorporated herein in their entirety, Applicants respectfully request that the Examiner withdraw all outstanding rejections and allow the currently pending claims.

Issues Under 35 U.S.C. 102/103

Applicants submitted a Declaration on February 20, 2009, which rebuts the Examiner's inherency assertion and clearly demonstrates that the cured product of Momoda '038 does not exhibit a tensile strength of 20 kgf or more. In response to Applicants' arguments of February 20, 2009, however, the Examiner asserts that the data provided by Applicants does not overlap in scope with the present claims, because "only examples 10, 11, 15, 24, 25, 34 and 35 disclose the required three monomers of the present claims." Applicants respectfully disagree.

Initially, Applicants reaffirm that it has been demonstrated that none of the exemplified embodiments of Momoda '038 inherently has the feature the Examiner believes is present (i.e., the claimed tensile strength). The fact that some of the Examples of Momoda '083 are outside of the scope of the present invention is irrelevant, as Applicants have demonstrated that all Examples of Momoda '038 which fall within the scope of the present invention lack the feature the Examiner alleges is inherently present.

Moreover, Applicants submit herewith a second Declaration Under 37 C.F.R. 1.132, in which Applicants have reproduced a large number of examples, in addition to Examples 10, 11, 15, 24, 25, 34 and 35 of Momoda '038, each of which discloses the required three monomers of the present claims.

The second Declaration shows that the tensile strength of the cured product of Examples 9 and 26 of Momoda '038 is 13 kgf and 12 kgf, respectively. These values are clearly outside the presently claimed range of 20 kgf or more.

Moreover, Applicants have also conducted experiments (Runs 3 to 18) in which a large number of monomers disclosed in Momoda '038 ("various polymerizable monomers III") are used. These monomers correspond to the "other polymerizable monomers (III)" of the present invention. As evidenced by the results of the experiments, none of the cured products obtained in these experiments exhibit a tensile strength of 20 kgf or more. That is, even when the various polymerizable monomers (III) are used, if the proportion of the polyfunctional polymerizable monomer (I) is outside the range specified in claim 1 of the present application, a cured product having a tensile strength of 20 kgf or more cannot be obtained.

Applicants respectfully submit that the results of the experiments discussed in the Declaration of February 20, 2009, as well as the results of the experiments discussed in the second Declaration enclosed herein show that, when the proportion of the monomer(s) is outside the range specified in claim 1 of the present application, a cured product having a tensile strength of 20 kgf or more **cannot be obtained** (emphasis added).

Clearly, Momoda '038 fails to teach or suggest a cured product as claimed. Moreover, Applicants submit that Momoda '038 also fails to teach or suggest a curable composition which

provides a cured product having a tensile strength of 20 kgf or more.

Reconsideration and withdrawal of all outstanding rejections are respectfully requested.

Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and objections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Vanessa Perez-Ramos, Reg. No. 61,158 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Dated: MAY 15 2009

Respectfully submitted,

By #42874

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Enclosure: Declaration Under 37 C.F.R. 1.132 (executed April 28, 2009)

MSW/VP/sh

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF	:
JUNJI TAKENAKA, ET AL.	:EXAMINER: John Freeman
SERIAL NO.: 10/549,696	:
FILED: September 19, 2005	:GROUP ART UNIT: 1794
FOR: POLYMERIZATION CURABLE COMPOSITION	:

DECLARATION UNDER 37 C.F.R. 1,132

COMMISSIONER FOR PATENTS
P.O. Box 1450
ALEXANDRIA, VIRGINIA 22313

Sir:

I, Junji Takenaka, am one of the inventors of the present application and have measured the tensile strength of a lens obtained by reworking following Examples of EP 1130038A1.

Experiment

Run 1

0.03 Parts by weight of the chromene 1 (see, page 22 of EP 1130038A1) and 1 part by weight of t-Butylperoxy neodecanoate (perbutyl ND) as the polymerization initiator, were added to 100 parts by weight of polymerizable monomers comprising 20 parts by weight of trimethylolpropane trimethacrylate (TMPT), 35 parts by weight of 2,2-bis(methacryloxypolyethoxyphenyl) propane (BPE), 20 parts by weight of triethylene glycol dimethacrylate (3G), 10 parts by weight of stearyl methacrylate (C18MA), 9 parts by weight of glycidyl methacrylate (GMA), 5 parts by weight of α-methylstyrene (αMS) and 1 part by weight of α-methylstyrene dimer (MSD), and were mixed to a sufficient degree. This mixture solution was poured into a mold constituted by a glass plate and a gasket of an ethylene/vinyl acetate copolymer, and substantially the whole amount of the above monomer composition was polymerized by cast polymerization. The polymerization was conducted by using an

air furnace while gradually raising the temperature from 30°C to 90°C over a period of 18 hours and maintaining the temperature at 90°C for 2 hours. After the polymerization has been finished, the polymer was removed from the glass mold.

Runs 2 to 25

Photochromic cured products were obtained in the same manner as in Run 1 but using polymerizable monomer compositions shown in the following table below.

Measurement of tensile strength

The cured products obtained in each of the above Runs were formed into disk-like test samples having a thickness of 2 mm and a diameter of 5 cm, two holes having a diameter of 2 mm were drilled on a line which is the diameter of each test sample with points 4 mm away from the periphery as the centers, two stainless steel rods having a diameter of 1.6 mm were inserted into the two holes and fixed to upper and lower chucks of a tensile tester while they extended through the holes, and the tensile strength of the test sample was measured by pulling at a rate of 5 mm/min. This measurement was made on 7 samples and the average value of the measurement data excluding those of two samples showing the largest and smallest measurement values was obtained.

Results

The obtained tensile strength values of each of the cured products were shown in the following table.

				Run	Monomer I (parts by wt)		Monomer II (parts by wt)		Monomer III	(parts by wt)	Tensile strength (Kgf)
A	Example of EP1130038A1	Ex9		1	TMPT	20	BPE	35	3G/C18MA/GMA/αMS/MSD	20/10/9/5/1	13
		Ex26		2	TMPT	20	BPE	48	4G/MAMePEG(468)/GMA/HEMA/αMS/MSD	5/10/4/5/8/1	12
B	Various polymerizable monomer III	Low-hardness	ethylenic monofunctional unsaturated monomer	3	TMPT	20	BPE	35	4G/vinyl stearate*	20/25	14
				4	TMPT	20	BPE	35	3PG/vinyl acetate*/GMA	20/15/10	11
			polyalkylene glycol polymerizable monomer or polyalkylenethio glycol polymerizable monomer	5	TMPT	20	BPE	35	MATHF(650)*	45	rubbery, can not be drilled
				6	TMPT	20	BPE	35	4G/MeSMAPEG(640)*	20/25	14
			alkyl acrylate or long chain alkyl methacrylate	7	TMPT	20	BPE	35	4G/BuA*	20/25	12
				8	TMPT	20	BPE	35	C12A*	45	rubbery, can not be drilled
			hydrocarbon chain (meth)acrylate having an unsatutrated bond	9	TMPT	30	BPE	35	4G/OleylMA*	15/20	14
				10	TMPT	25	BPE	25	2G/LinaloolMA*/GMA/αMS/MSD	25/10/10/4/1	12
			compound having at least one epoxy group but without a radically polymerizable group	11	TMPT	20	BPE	35	4G/PEGE(774)*/GA/MSD	25/10/8/2	12
			compound having at least one thioepoxy group but without a radically polymerizable group	12	TMPT	20	BPE	35	4G/PESGE(834)*/GMA/αMS/MSD	10/15/10/8/2	11
		High-hardness	cyclic or linear alkylene di(meth)acrylate	13	TMPT	25	BPE	25	DCP*	50	16
				14	TMPT	50	BPE	35	NPG*	15	9
			dithio(meth)acrylate	15	TMPT	20	BPE	35	4G/SG*/GMA/αMS/MSD	20/10/10/4/1	15
				16	TMPT	20	BPE	35	2SG*/MSD	43/2	13
			divinyl derivative	17	TMPT	20	BPE	35	3G/GMA/DVB*/MSD	20/10/13/2	14
				18	TMPT	20	BPE	35	4G/DVBP*/MSD	23/20/2	14
C	Example of EP1130038A1	Ex10		19	TMPT	20	BPE	20	4PG/C18MA/GMA	30/15/15	10
	Various polymerizable monomer I and II	Various polymerizable monomer I		20	TMM360	20	BPE	20	4PG/C18MA/GMA	30/15/15	10
				21	D-TMP	20	BPE	20	4PG/C18MA/GMA	30/15/15	11
		Various polymerizable monomer II		22	TMPT	20	BPE200	20	4PG/C18MA/GMA	30/15/15	11
				23	TMPT	20	BPE500	20	4PG/C18MA/GMA	30/15/15	14
				24	TMPT	20	PDBP	20	4PG/C18MA/GMA	30/15/15	12
				25	TMPT	20	BPS	20	4PG/C18MA/GMA	30/15/15	12

(Monomer I)
TMPT: trimethylolpropane trimethacrylate
TMM360: penthaerythritol trimethacrylate/pentaerythritol tetramethacrylate=60/40
D-TMP: ditrimethylolpropane trimethacrylate

(Monomer II)
BPE: 2,2-bis(4-methacryloxypolyethoxyphenyl)propane (average value of (m+n) is 2.6)
BPE200: 2,2-bis(4-methacryloxypolyethoxyphenyl)propane (average value of (m+n) is 4)
BPE500: 2,2-bis(4-methacryloxypolyethoxyphenyl)propane (average value of (m+n) is 10)
PDBP: 2,2-bis(4-methacryloxypolypropoxyphenyl)propane (average value of (m+n) is 4)
BPS: bis(2-methacryloxyethoxyphenyl)sulfide

(Monomer III)
2G: diethlene glycol dimethacrylate
3G: triethlene glycol dimethacrylate
4G: tetraethlene glycol dimethacrylate
3PG: tripropylene glycol dimethacrylate
4PG: tetrapropylene glycol dimethacrylate
C18MA: stearyl methacrylate
MAMePEG(468): polyethlene glycol methacylate having an average molecular weight of 526
MATHF(650): polyhexamethlene glycol dimethacrylate having an average molecular weight of 650
MeSMAPEG(640): methylthio ether polyethylenethio glycol methacrylate having an average molecular weight of 640
BuA: butyl acrylate
C12A: lauryl acrylate
OleylMA: oleyl methacrylate
LinaloolMA: linalool methacrylate
PEGE(774): polyethylene glycol diglycidyl ether having an average molecular weight of 774
PESGE(834): polyethylenethio glycol thiodiglycidyl ether having an average molecular weight of 834
DCP: tricyclodecane dimethanol dimethacrylate
NPG: neopentyl glycol dimethacrylate
SG:bis(2-methacryloylthioethyl)sulfide
2SG:bis(2-methacryloylthioethylthioethyl)sulfide
DVB: divinyl benzene
DVBP: divinyl biphenyl
GMA: glycidyl methacrylate
GA: glycidyl acrylate
HEMA: hydroxyethyl methacrylate
αMS: α-methylstyrene
MSD: α-methylstyrene dimer

None of the cured products of Runs 1 to 25 has a tensile strength of 20 kgf or more.

The undersigned declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

Further declarant saith not.

Jimji Takenaka
Signature

April 28th, 2009
Date